

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS NUMBER 05-0536  
RESPONSIBLE OFFICER  
SALES TAX  
For Tax Period 2002-2003**

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**Issue**

**I. Sales Tax -Responsible Officer Liability**

**Authority:** IC 6-2.5-9-3, IC 6-8.1-5-1 (b).

The taxpayer protests the assessment of corporate sales taxes against him as a responsible officer.

**Statement of Facts**

The taxpayer was the president of two corporations that did not remit the proper amount of sales taxes to the state. The Indiana Department of Revenue (department) personally assessed those delinquent corporate sales taxes, interest, and penalty against the taxpayer. The taxpayer protested the assessment and a hearing was scheduled. The taxpayer failed to appear for the hearing. Therefore, this Letter of Findings is based upon the information in the file.

**I. Sales Tax -Responsible Officer Liability**

**Discussion**

Indiana Department of Revenue assessments are prima facie evidence that the tax assessment is correct. The taxpayer bears the burden of proving that the assessment is incorrect. IC 6-8.1-5-1 (b).

The proposed sales tax liability was issued under authority of IC 6-2.5-9-3 that provides as follows:

An individual who:

- (1) is an individual retail merchant or is an employee, officer, or member of a corporate or partnership retail merchant; and
- (2) has a duty to remit state gross retail or use taxes to the department;

holds those taxes in trust for the state and is personally liable for the payment of those taxes, plus any penalties and interest attributable to those taxes, to the state.

The taxpayer was the president of the corporations. As the president, he was responsible for seeing that the sales taxes were collected and remitted to the state. Therefore, he had the statutory duty to remit the taxes. He failed to see that the taxes were remitted. The department correctly personally assessed the corporate sales taxes, interest, and penalty against the taxpayer.

### **Finding**

The taxpayer's protest is denied.

KMA/JMM/DK/06/20/02